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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/780,885

02/19/2004

Stanley Lawrence Grywacheski

85081-202 RWD

9052

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7590

06/04/2007

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EXAMINER

TO, TOAN C

ART UNIT

PAPER NUMBER

3616

MAIL DATE

DELIVERY MODE

06/04/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/780,885

Applicant(s)

GRYWACHESKI ET AL.

Examiner

Toan C. To

Art Unit

3616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 March 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 and 17-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 17, 24 and 25 is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4, 5, 7, 8, 18, 20 and 22 is/are rejected.
- 7) ☒ Claim(s) 3, 6, 9, 10, 19, 21 and 23 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date. _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Examiner's note

1. The indicated allowability of claims 2, 4-5, 8 is withdrawn in view of the newly discovered reference(s) to Dow (U.S. 5,176,573). Rejections based on the newly cited reference(s) follow.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 4, and 7-8, 22 are rejected under 35 U.S.C. 102(b) as by being anticipated Dow (U.S. 5,176,573).

Dow discloses a personal all-terrain vehicle comprising: a frame (38) supported for rolling movement along the ground on respective an engine (28) arranged for driving the wheels (14, 16) to displace the vehicle in a longitudinal direction of the vehicle; and a driver seat (figure 5 show a seat in the cab 50) supported on the frame (38) and arranged for supporting a driver of the vehicle thereon; the driver seat being positioned at an end of the frame (38) beyond the wheels (14) of the vehicle in the longitudinal direction of the vehicle; wherein there is provided a track (10, 12) extending about respective ones of the wheels (14, 16) on each side of the frame (38); wherein the seat is supported directly in behind the wheels (14), in alignment in the longitudinal direction

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with the wheels (14, 16); wherein there is provided a drive actuator (51) controlling drive of the vehicle in the longitudinal direction, the drive actuator (51) being positioned adjacent the drive seat for suitable actuation by a leg of the driver; wherein the engine (28) is supported at an end of the frame beyond the wheels in the longitudinal direction of the vehicle opposite the driver seat.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2, 5, 18, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dow in view of Wagner (U.S. 4,869,337).

Dow discloses every element of the invention as discussed above except that the orientation of the driver seat faces laterally outward, substantially perpendicularly to the longitudinal direction in operation.

Wagner teaches the invention, wherein the driver seat (50) supported on the frame for supporting a driver of the vehicle thereon; the driver seat (50) is faced transversely to the longitudinal direction of the vehicle (the seat 50 is capable of rotating 360 degrees, therefore it is capable of facing transversely to the longitudinal direction of the vehicle).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the driver seat of Dow's invention by using teaching of Wagner in order to provide an adjustable seat assembly which help the driver to easily access to different locations within the cab.

6. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dow in view of Barr (U.S. 5,513,868).

Dow discloses every element of the invention as discussed above except that there is a hitch member supported at a rear end of the vehicle adjacent to the seat.

Barr teaches the invention wherein there is a hitch member (48) supported at a rear end of the vehicle adjacent to the seat (30). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the vehicle of Dow by attaching a hitch member as taught by Barr in order to transport a smaller trailer when needed.

Allowable Subject Matter

7. Claims 3, 6, 9-10, 19, 21, and 23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. Claims 17 and 24-25 are allowed.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Toan C. To whose telephone number is (571) 272-6677. The examiner can normally be reached on Mon-Fri (8:00-5:00).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on (571) 272-6669. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

TTo
May 26, 2007

